

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ROBERT OLAFSON and
PATRICIA OLAFSON

CIVIL ACTION NO. 04
10158MLW

v.

KYLE E. BYRNE, an BFI WASTE
SERVICES OF MASSACHUSETTS, LLC,
and MARGARET HAMILL

JOINT STATEMENT OF THE PARTIES REGARDING SCHEDULING CONFERENCE

The plaintiffs, Robert Olafson and Patricia Olafson, and the defendants, Kyle E. Byrne, BFI Waste Services of Massachusetts, LLC, and Margaret Hamill, represent to the Court as follows:

1. **Summary of the Position of Each Party.**

Robert Olafson and Patricia Olafson

The Plaintiffs, who are husband and wife, were injured in a motor vehicle accident on October 14, 2002 on Martha's Vineyard. Robert Olafson was driving and Patricia Olafson was a passenger in a motor vehicle proceeding in a westward direction on West Tisbury Road. A motor vehicle driven by the defendant Margaret Hamill was proceeding on Barnes Road, toward the intersection with West Tisbury Road. The Hamill vehicle proceeded through a Stop sign located at the intersection and commenced to proceed into the intersection. Robert Olafson slowed his vehicle and turned his vehicle so as to avoid contact with the Hamill vehicle. A garbage truck driven by the defendant Kyle E. Byrne, which was tailgating the Olafson vehicle, was unable to avoid the Olafson vehicle, and struck the Olafson vehicle in the rear. Byrne was

working at the time in the service of the corporate defendant, BFI Waste Management of Massachusetts, LLC.

Robert Olafson suffered serious injuries, including damage to the nerves in his spine. He has been under continual medical care and treatment since the date of the accident, and underwent spinal surgery as recently as May 10, 2004. Patricia Olafson's injuries included whiplash with resulting neck pain and headaches.

Collectively, the parties have had special damages to date in excess of \$400,000.

Kyle E. Byrne and BFI Waste Services of Massachusetts LLC

Byrne contends that he was operating his vehicle with due care at all times and that the collision between his vehicle and the Olafson vehicle was caused by the sudden and unexpected stop by that vehicle.

Margaret Hamill

The defendant, Margaret Hamill states that on October 14, 2002 the defendant, Margaret Hamill came to a complete stop at the stop sign on West Tisbury Road in Martha's Vineyard. The defendant's view was obstructed on the left side, so she slowly and carefully inched out to check for traffic. As she did, the plaintiffs, who were coming from the defendant, Hamill's left side, hit the brakes on their car, and as a result the plaintiffs were rear-ended by a garbage truck, owned by defendant, BFI Waste Management Services of Massachusetts, Inc. and being driven by its agent, servant or employee, the co-defendant Kyle E. Byrne. There was no contact between the plaintiffs' vehicle and the insured's vehicle and the defendant's vehicle was not so far into the intersection to be reasonably considered an obstruction requiring the plaintiffs to come to a sudden and unexpected stop.

The defendant Hamill reserves the right to challenge the allegation that plaintiffs' special damages exceed \$400,000, or that any such damages are reasonably related to the alleged conduct of the defendant, Hamill. This defendant requests that at the appropriate time this Honorable Court transfer this action to the appropriate Superior Court in the Commonwealth of Massachusetts in the event the plaintiff's damages do not reasonably appear to exceed the diversity jurisdictional minimum.

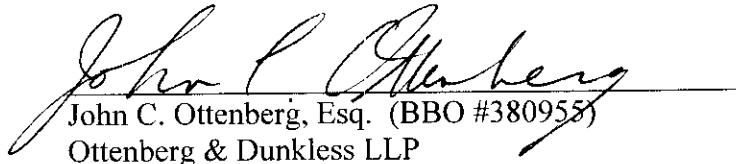
2. **Joint Discovery Plan and Motion Schedule.**

The parties have agreed to the dates set forth in the proposed Scheduling Order, a copy of which is annexed hereto. That proposed Scheduling Order includes a timetable for discovery events and for the filing of motions.

3. **Certifications Signed by Counsel.**

Certifications signed by counsel are annexed hereto.

ROBERT OLAFSON and PATRICIA OLAFSON
By their attorney,


John C. Ottenberg, Esq. (BBO #380955)
Ottenberg & Dunkless LLP
101 Arch Street
Boston, MA 02110
617-342-8600

KYLE E. BYRNE and BFI WASTE SERVICES
OF MASSACHUSETTS

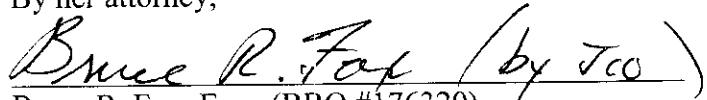
By their attorney,

 (by TCO)

Lee Stephen MacPhee, Esq. (BBO #312400)
Morrison, Mahoney & Miller LLP
250 Summer Street
Boston, MA 02210-1181
(617) 439-7500

MARGARET HAMILL

By her attorney,

 (by TCO)

Bruce R. Fox, Esq. (BBO #176320)
278 Midstate Office Park
Auburn, MA 01501
(866) 290-7435

Dated: August 11, 2004

C:\Office Documents\Gateway\WPFiles\WPF\ILES\Olafson\JointStatement.wpd